

Permit file
P 12947A

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Permits 12947A, 12949, 12950; and 16596
(Applications 12919A, 15736, 15737, and 19351)

Sonoma County Water Agency

**ORDER APPROVING CHANGES IN
POINTS OF DIVERSION AND REDIVERSION
AND AMENDING THE PERMIT**

SOURCE: (1) East Fork Russian River tributary to Russian River;
(2) Dry Creek tributary to Russian River; and
(3) Russian River

COUNTY: Sonoma and Mendocino

WHEREAS:

1. The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) issued amended Permits 12947A, 12949, 12950 and 16596 pursuant to Applications 12919A, 15736, 15737, and 19351 on September 18, 1986 to the Sonoma County Water Agency (SCWA). The Division issued orders amending these permits on January 4, 1994, May 10, 1994, and January 3, 2006.
2. On May 26, 1998, SCWA filed a petition for change with the State Water Board to allow the SCWA to add Camp Meeker Recreation and Park District and the City of Healdsburg as points of diversion and rediversion.
3. On March 31, 1999, SCWA filed a petition for change with the State Water Board to allow the SCWA to add Collector No. 6 to its Wohler diversion facility as a point of diversion and rediversion.
4. On July 14, 2000, the State Water Board issued public notice of the SCWA petitions. All protests filed against the petitions have been resolved. Protestants Ferrari-Carano Vineyards and Winery; J. Wine Company; Ledbetter Farms; David C. Olson; Prudential Insurance Company of America; River Bend Vineyards, LTD; Joe J. Rochioli, Jr.; Silverado Premium Properties, LLC; and Jeff Webber entered into an agreement with SCWA regarding the prior rights of the protestants. The State Water Board will incorporate the terms of the agreement into SCWA's permits.
5. There is no proposed change in the rate or amount of water or any change in the place or purpose of use. The State Water Resources Control Board has determined that the petitions for change in points of diversion and rediversion do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.

6. The State Water Board reviewed and considered the information contained in the environmental documents prepared for the project in compliance with the California Environmental Quality Act (CEQA).
 - a. On November 28, 1995, Camp Meeker Recreation and Park District issued a Notice of Determination (NOD) for the Camp Meeker Water System Water Supply Project (SCH # 95103017). The project consists of construction of a new well in Monte Rio, a water transmission pipeline, a treatment plant, a booster pump station, and a terminal storage tank. Camp Meeker Recreation and Park District prepared a Mitigated Negative Declaration and made findings for this project. The Mitigated Negative Declaration identified potentially significant impacts on geology, water, air quality, transportation/circulation, biological resources, hazards, noise, public services, utilities and service systems, aesthetics, and cultural resources. The Camp Meeker Recreation and Park District found that mitigation measures incorporated into the project avoid or reduce potential environmental impacts to less than significant levels.
 - b. On April 16, 1998, The City of Healdsburg issued a NOD for construction of municipal water wells on Dry Creek (SCH # 94103067). The project consists of construction and operation of a new municipal water production well field along Dry Creek, and construction of auxiliary improvements to connect the wells to the city's water system. The City of Healdsburg prepared an Environmental Impact Report (EIR) and made findings for this project. The City of Healdsburg identified potentially significant impacts on earth, air, water, plant life, land use, safety, and utilities. The City of Healdsburg found that mitigation measures incorporated into the project avoid or reduce potential environmental impacts to less than significant.
 - c. On December 15, 1998 the SCWA issued a NOD for Collector No. 6, an element of the Russian River-Cotati Intertie Project (SCH # 93023038). The project involves construction, operation and maintenance of a Ranney-type collector well. Collector No. 6 consists of a vertical concrete caisson with horizontal perforated intake pipes installed in the underground river gravels to collect water. A pump house containing motors, pumps, and controls will be constructed on top of the caisson. The well will be capable of producing 16 to 22 million gallons of water per day. Appurtenances for Collector No. 6 may include connecting pipelines, access roads, electrical facilities, observation wells, telemetry equipment, and water treatment equipment. SCWA evaluated construction and operation of Collector No. 6 in its EIR prepared for the Water Supply and Transmission System Project (WSTSP EIR). The SCWA identified potentially significant impacts on earth, water, fisheries, noise, traffic, public services and utilities, energy, public health and safety, visual quality, recreation, and cultural resources. Mitigation measures have been incorporated into the project to avoid or reduce potential environmental effects identified in the EIR.
 - d. The State Water Board, as responsible agency, is required to consider (1) the Negative Declaration prepared by Camp Meeker Recreation and Park District; (2) the EIR prepared by the City of Healdsburg; and (3) the EIR prepared by SCWA, and reach it's own conclusions on whether and how to approve the Petitions for Change of Permits 12947A, 12949, 12950, and 16596 by adding additional points of diversion and redirection.
 - e. The State Water Board finds that changes or mitigation measures have been required in, or incorporated into, the project that avoid or substantially lessen the significant

environmental effects identified in the final Negative Declaration and the two Final EIRs prepared for the project. Mitigation measures for this project are within the responsibility of the Camp Meeker Recreation and Park District, the City of Healdsburg, and SCWA, not the State Water Board, and have been or should be adopted.

- f. SCWA's EIR found that the Collector No. 6 component of the WSTSP would cause potentially significant or significant and unavoidable impacts on biological resources, noise, visual quality, and recreation.
- g. Construction of Collector No. 6 will result in removal of approximately 13 acres of riparian woodland and grassland. The project includes mitigation to reduce environmental impacts including (1) locating the project in an area to minimize impacts; (2) restoration of approximately 12.5 acres of disturbed land; and (3) replacement of all trees over four inches in diameter breast height at a ratio of 3:1. Impacts cannot be avoided entirely because Collector No. 6 must be located in its planned location in order to connect to SCWA's existing transmission system, and to access the alluvium along the Russian River. The project will, therefore, cause significant and unavoidable temporary impacts and potentially significant permanent unavoidable impacts to biological resources.
- h. Construction of Collector No. 6 will require the use of heavy equipment that in turn will generate significant noise when equipment is running. Noise from equipment will be audible to nearby residences. Noise impacts will be mitigated by implementing restricted hours of operation and requirements to keep equipment in good mechanical condition. Noise impacts are temporary (only occurring during construction); nonetheless, construction activities may still result in potentially significant unavoidable noise-related impacts.
- i. Construction of permanent structures will change the viewshed and result in potentially significant impacts to visual resources. Impacts to visual resources will be mitigated by (1) locating Collector No. 6 in a manner which will minimize impacts; (2) minimizing vegetation removal during construction; (3) implementing revegetation to provide screening; and (4) painting structures to blend in with surroundings. Even with the proposed mitigation, construction activities may still result in potentially significant unavoidable impacts to visual resources.
- j. Construction of Collector No. 6 will disrupt recreational activities in and along the Russian River. Recreational users may be impacted by noise and increased human presence during construction. No mitigation measures have been identified that would reduce these impacts to a less than significant level. Therefore, construction activities may result in potentially significant unavoidable impacts to recreation.
- k. SCWA found that mitigation measures would not reduce these effects to less than significant. Changes or alterations to the project that would avoid or substantially lessen these environmental effects are within the responsibility of the SCWA, not the State Water Board, and have been, or should be adopted.

7. The State Water Board, having reviewed and considered the information contained in the final Negative Declaration and the two Final EIRs prepared for the project, finds that no additional

mitigation measures within the responsibility of the State Water Board are available for the identified environmental impacts.

8. The social and economic need for the requested permit changes (i.e., petitions) outweighs the impacts described in SCWA's EIR. Therefore, on the basis of substantial evidence in the record and the findings set forth above, the State Water Board finds that the benefits of, and the need for, the project outweigh the significant environmental impacts.

NOW, THEREFORE, IT IS ORDERED:

1. The Division approves the petitions by SCWA to add points of diversion to Permits 12947A, 12949, 12950, and 16596 for Collector No. 6, the City of Healdsburg, and Camp Meeker Recreation and Park District. The following ties to the points of diversion/rediversion are by California Coordinate System, Zone 2, NAD 1983:

Permits 12947A, 12949, 12950, and 16596

Collector No. 6 – North 1,951,063 and East 6,309,815
Camp Meeker Recreation and Park District – North 1,932,975 and East 6,272,896

Permits 12947A, 12949, and 12950

Healdsburg Fitch Well No. 1 – North 1,984,603 and East 6,317,057
Healdsburg Fitch Well No. 2 – North 1,984,629 and East 6,316,958
Healdsburg Guantlett Well No. 1 – North 1,993,475 and East 6,317,230
Healdsburg Guantlett Well No. 2 – North 1,993,581 and East 6,317,300
Healdsburg Guantlett Well No. 3 – North 1,993,517 and East 6,317,393
Healdsburg Guantlett Well No. 4 – North 1,993,594 and East 6,317,630

Permit 16596

Healdsburg Dry Creek Well No. 1 – North 1,982,134 and East 6,310,263
Healdsburg Dry Creek Well No. 2 – North 1,981,917 and East 6,311,300
Healdsburg Dry Creek Well No. 3 – North 1,982,331 and East 6,310,202
Healdsburg Dry Creek Well No. 4 – North 1,982,717 and East 6,309,960
Healdsburg Dry Creek Well No. 5 – North 1,983,213 and East 6,309,763

2. The following term shall be added to Permit 12947A:

Permittee shall comply with the following provisions that are derived from the agreement between permittee and downstream diverters executed on February 27 and 28, 2006 and filed with the State Water Resources Control Board:

The right to divert natural-flow water under this permit shall be junior in priority to the rights to divert natural-flow water under any valid riparian rights referenced in Statements of Water Diversion and Use 10480-10482 (Silverado Premium Properties, LLC) 10483-10485 (Ledbetter Farms), 14060 and 14926-14931 (Ferrari-Carano Vineyard and Winery) and 14090-14091 (River Bend Vineyards, LTD). The right to divert natural-flow water and imported water under this permit shall be junior in priority to the rights to divert natural-flow water and imported water under water

right License 3208 issued pursuant to Applications 10976 (River Bend Vineyards, LTD) and License 3647 issued pursuant to Application 12452 (Jeff Webber).

"Natural-flow water" means water that originates in the Russian River watershed and is not stored. "Natural-flow water" does not include any water that is imported into the Russian River watershed or any water that is stored in a reservoir and then subsequently released into the Russian River or any of its tributaries. "Imported water" means water that originates outside of the Russian River watershed and is diverted from some other watershed into the Russian River watershed. Nothing in this term shall be construed to authorize the diversion or redirection under any riparian right of any imported water or water released from storage. Nothing in this term shall be construed to authorize the diversion or redirection under any appropriative rights besides permittee's appropriative rights of any water released from storage.

3. The following term shall be added to Permits 12949 and 12950:

Permittee shall comply with the following provisions that are derived from the agreement between permittee and downstream diverters executed on February 27 and 28, 2006 and filed with the State Water Resources Control Board:

The right to divert natural-flow water under this permit shall be junior in priority to the rights to divert natural-flow water under any valid riparian rights referenced in Statements of Water Diversion and Use 10480-10482 (Silverado Premium Properties, LLC) 10483-10485 (Ledbetter Farms), 14060 and 14926-14931 (Ferrari-Carano Vineyard and Winery) and 14090-14091 (River Bend Vineyards, LTD). The right to divert natural-flow water and imported water under this permit shall be junior in priority to the rights to divert natural-flow water and imported water under water right License 3208 issued pursuant to Application 10976 (River Bend Vineyards, LTD); Licenses 3647, 4730, and 5455 issued pursuant to Applications 12452, 13393, and 14604 (Jeff Webber); and License 4867 issued pursuant to Application 13268 (Joe J. Rochioli, Jr.).

"Natural-flow water" means water that originates in the Russian River watershed and is not stored. "Natural-flow water" does not include any water that is imported into the Russian River watershed or any water that is stored in a reservoir and then subsequently released into the Russian River or any of its tributaries. "Imported water" means water that originates outside of the Russian River watershed and is diverted from some other watershed into the Russian River watershed. Nothing in this term shall be construed to authorize the diversion or redirection under any riparian right of any imported water or water released from storage. Nothing in this term shall be construed to authorize the diversion or redirection under any appropriative rights besides permittee's appropriative rights of any water released from storage.

4. The following term shall be added to Permit 16596:

Permittee shall comply with the following provisions that are derived from the agreement between permittee and downstream diverters executed on February 27 and 28, 2006 and filed with the State Water Resources Control Board:

The right to divert natural-flow water under this permit shall be junior in priority to the rights to divert natural-flow water under any valid riparian right referenced in Statements of Water Diversion and Use 10483-10485 (Ledbetter Farms), 14060 and 14926-14931 (Ferrari-Carrano Vineyard and Winery); and 14911 and 14922 (David C. Olson). The right to divert natural-flow water and imported water under this permit shall be junior in priority to the rights to divert natural-

flow water and imported water under Licenses 3956, 6095 and 6096 issued pursuant to Applications 13267, 13543, and 14333 (Ledbetter Farms), and License 6886 issued pursuant to Application 14762 (J. Wine Company).

"Natural-flow water" means water that originates in the Russian River watershed and is not stored. "Natural-flow water" does not include any water that is imported into the Russian River watershed or any water that is stored in a reservoir and then subsequently released into the Russian River or any of its tributaries. "Imported water" means water that originates outside of the Russian River watershed and is diverted from some other watershed into the Russian River watershed. Nothing in this term shall be construed to authorize the diversion or redirection under any riparian right of any imported water or water released from storage. Nothing in this term shall be construed to authorize the diversion or redirection under any appropriative rights besides permittee's appropriative rights of any water released from storage.

5. All other conditions of Permits 12947A, 12949, 12950, and 16596 are still applicable.

STATE WATER RESOURCES CONTROL BOARD

for James W. Kassel
Victoria A. Whitney, Chief
Division of Water Rights

Dated: **AUG 30 2006**

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

AMENDED PERMIT 12950

Application 15737 of Sonoma County Water Agency
 P.O. Box 11628
 Santa Rosa, CA 95406

filed on February 18, 1954, has been approved by the State Water Resources Control Board (State Water Board) SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:

Russian River

Tributary to:

Pacific Ocean

within the County of Sonoma.

2. Location of point of diversion

By California Coordinate System of 1983 in Zone 2	North (ft)	East (ft)	40-acre sub-division of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
Wohler Collector 1	1948921	6308916	SE¼ of NW¼	29	8N	9W	MD
Wohler Collector 2	1948671	6308957	SE¼ of NW¼	29	8N	9W	MD
Wohler Collector 6	1951063	6309815	NW¼ of NE ¼	29	8N	9W	MD
Mirabel Park Collector 3	1944020	6305061	SW¼ of NE¼	31	8N	9W	MD
Mirabel Park Collector 4	1943603	6305781	SE¼ of NE¼	31	8N	9W	MD
Mirabel Park Collector 5	1943802	6306855	SE¼ of NE¼	31	8N	9W	MD
Inflatable Dam	1945126	6308135	NW¼ of NW¼	32	8N	9W	MD
Windsor Well No. 7	1965096	6316757	SW¼ of NE¼	9*	8N	9W	MD
Windsor Well No. 8	1965052	6316739	SW¼ of NE¼	9*	8N	9W	MD
Windsor Well No. 9	1965142	6316774	SW¼ of NE¼	9*	8N	9W	MD
Russian River County Water Dist Well No. 1	1945412	6303528	SW¼ of NE¼	31	8N	9W	MD
Russian River County Water Dist Well No. 2	1945362	6303583	NE¼ of NW¼	31	8N	9W	MD
Russian River Well No. 1	1944869	6307350	NE¼ of NW¼	32	8N	9W	MD
Russian River Well No. 2	1944838	6307500	SW¼ of NW¼	32	8N	9W	MD
Russian River Well No. 3	1944848	6307641	SW¼ of NW¼	32	8N	9W	MD
Russian River Well No. 4	1944567	6307736	SW¼ of NW¼	32	8N	9W	MD
Russian River Well No. 5	1944759	6307803	SW¼ of NW¼	32	8N	9W	MD

Russian River Well No. 6	1944919	6307870	SW¼ of NW¼	32	8N	9W	MD
Russian River Well No. 7	1945669	6307915	SW¼ of NW¼	32	8N	9W	MD
Healdsburg Fitch Well No. 1	1984603	6317057	SE¼ of SE¼	21*	9N	9W	MD
Healdsburg Fitch Well No. 2	1984629	6316958	SE¼ of SE¼	21*	9N	9W	MD
Healdsburg Guantlett Well No. 1	1993475	6317230	NE¼ of NE¼	16*	9N	9W	MD
Healdsburg Guantlett Well No. 2	1993581	6317300	NE¼ of NE¼	16*	9N	9W	MD
Healdsburg Guantlett Well No. 3	1993517	6317393	NE¼ of NE¼	16*	9N	9W	MD
Healdsburg Guantlett Well No. 4	1993594	6317630	NE¼ of NE¼	16*	9N	9W	MD
Camp Meeker Rec and Park District	1932975	6272896	NW¼ of SW¼	7	7N	10W	MD

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
Domestic Irrigation Municipal	Within the service area of the Sonoma County Water Agency					

The place of use is shown on a map dated October 12, 2005, on file with the State Water Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 60 cubic feet per second to be diverted from April 1 to September 30 of each year.

The maximum combined rate of diversion under this permit, together with the rate of direct diversion and redirection of stored water under Permits 12947A and 12949 issued on Applications 12919A and 15736, shall not exceed 92 cubic feet per second.

The total rate and quantity of direct diversion under this permit, together with that directly diverted and redirected from storage under Permits 12947A, 12949 and 16596 issued on Applications 12919A, 15736, and 19351, shall not exceed 180 cubic feet per second and 75,000 acre-feet per water year of October 1 to September 30.

(0000005)
(0000114).

6. The amount authorized for appropriation may be reduced in the license if investigation warrants.

(0000006)

7. Construction work shall be completed by December 1, 1995.

(0000008)

8. Complete application of the water to the authorized use shall be made by December 1, 1999.

(0000009)

9. Progress reports shall be submitted promptly by permittee when requested by the State Water Board until license is issued. (0000010)
10. Permittee shall allow representatives of the State Water Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
11. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the State Water Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to the permittee and an opportunity for hearing, the State Water Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

13. This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

14. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

15. This permit is subject to appropriations of water by others, whether under rights acquired prior or subsequent to February 18, 1954, (the date of filing Application 15737), for beneficial use within Potter Valley and within other watersheds tributary to the Russian River except East Fork Russian River downstream from Coyote Valley Dam.

(0000800)

16. This permit is subject to the stipulation between permittee and Potter Valley Irrigation District dated August 18, 1959, and filed of record as Sonoma District Exhibit 13 at the hearing of Application 12919A and others.

(0000300)

17. For the protection of fish and wildlife, and the maintenance of recreation in the Russian River, permittee shall allow sufficient water to bypass the points of diversion to maintain the following minimum flows to the Pacific Ocean:

- | | |
|---|----------|
| (1) During normal water supply conditions | 125 cfs* |
| (2) During dry water supply conditions | 85 cfs |
| (3) During critical water supply conditions | 35 cfs |

*cubic feet per second

For the purposes of the requirements in this term, the following definitions shall apply:

- (1) Dry water supply conditions exist when cumulative inflow to Lake Pillsbury beginning on October 1 of each year is less than:

8,000 acre-feet as of January 1
39,200 acre-feet as of February 1
65,700 acre-feet as of March 1
114,500 acre-feet as of April 1
145,600 acre-feet as of May 1
160,000 acre-feet as of June 1

- (2) Critical water supply conditions exist when cumulative inflow to Lake Pillsbury beginning on October 1 of each year is less than:

4,000 acre-feet as of January 1
20,000 acre-feet as of February 1
45,000 acre-feet as of March 1
50,000 acre-feet as of April 1
70,000 acre-feet as of May 1
75,000 acre-feet as of June 1

- (3) Normal water supply conditions exist in the absence of defined dry or critical water supply conditions.
- (4) The water supply condition designation for the months of July through December shall be the same as the designation for the previous June. Water supply conditions for January through June shall be redetermined monthly.
- (5) Cumulative inflow to Lake Pillsbury is the calculated algebraic sum of releases from Lake Pillsbury, increases in storage in Lake Pillsbury, and evaporation from Lake Pillsbury.

(0140068)

18. Permittee shall consult with the Division of Water Rights and, within one year from September 18, 1986, develop a plan satisfactory to the Chief, Division of Water Rights, for submittal of data to the State Water Board on the quantities of direct diversion beneficially used under this permit.

(0490900)

19. The State Water Board reserves jurisdiction over this permit to modify, delete, or add minimum flow requirements or related criteria for the protection of fish and wildlife and the maintenance of recreation in the Russian River should 1) additional fishery studies be conducted in the Russian River, 2) unforeseen adverse impacts occur to the fishery or recreation in the Russian River, or 3) final administrative or judicial action result in modified minimum flow requirements in the Eel River. Action by the State Water Board will be taken only after notice to interested parties and opportunity for hearing.

(0400600)

20. Permittee shall comply with the following provisions that are derived from the agreement between permittee and downstream diverters executed on February 27 and 28, 2006 and filed with the State Water Resources Control Board:

The right to divert natural-flow water under this permit shall be junior in priority to the rights to divert natural-flow water under any valid riparian rights referenced in Statements of Water Diversion and Use 10480-10482 (Silverado Premium Properties, LLC) 10483-10485 (Ledbetter Farms), 14060 and 14926-14931 (Ferrari-Carano Vineyard and Winery) and 14090-14091 (River Bend Vineyards, LTD). The right to divert natural-flow water and imported water under this permit shall be junior in priority to the rights to divert natural-flow water and imported water under water right License 3208 issued pursuant to Application 10976 (River Bend Vineyards, LTD); Licenses 3647, 4730, and 5455 issued pursuant to Applications 12452, 13393, and 14604 (Jeff Webber); and License 4867 issued pursuant to Application 13268 (Joe J. Rochioli, Jr.).

"Natural-flow water" means water that originates in the Russian River watershed and is not stored. "Natural-flow water" does not include any water that is imported into the Russian River watershed or any water that is stored in a reservoir and then subsequently released into the Russian River or any of its tributaries. "Imported water" means water that originates outside of the Russian River watershed and is diverted from some other watershed into the Russian River watershed. Nothing in this term shall be construed to authorize the diversion or rediversion under any riparian right of

any imported water or water released from storage. Nothing in this term shall be construed to authorize the diversion or redirection under any appropriative rights besides permittee's appropriative rights of any water released from storage.

(0160300)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

James W. Kanel
for Victoria A. Whitney, Chief
Division of Water Rights

Dated: **AUG 30 2006**